

## AMS/FAST CHANGE REQUEST (CR) COVERSHEET

**Change Request Number:** 19-49A

**Date Received:** September 20, 2019

**Title:** Single Source Justification -Addition of Real Estate Exemption

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**Initiator Name:** Gina Perez

**Initiator Organization Name / Routing Code:** Field Operations Acquisition & Real Estate,  
AGC-530

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**ASAG Member Phone:** 202-267-3289

**Policy and Guidance:** (check all that apply)

- ☐ Policy
- ☒ Procurement Guidance
- ☐ Real Estate Guidance
- ☐ Other Guidance
- ☐ Non-AMS Changes

**Summary of Change:**

This change to AMS Guidance adds a single-source exemption for a site-specific requirement or land or unmanned, antenna/ equipment space into AMS Procurement Guidance, consistent with AMS Policy.

**Reason for Change:**

Single-source justification Policy, Real Estate Policy, Guidance, and Real Estate Guidance are not congruent across AMS, specifically Sections 3 and 4. This change adds a single-source exemption for a site-specific requirement or land or unmanned, antenna/ equipment space into AMS Procurement Guidance, consistent with AMS Policy.

**Development, Review, and Concurrence:** AGC-530, AAQ-900, AAP-100, and AAQ .

**Target Audience:** Contracting personnel, investment analysis teams, and the acquisition workforce

**Briefing Planned:** Yes.

**ASAG Responsibilities:** Electronic approval on 09/25/19.

**Section / Text Location:** Procurement Guidance T3.2.2.4

**The redline version must be a comparison with the current published FAST version.**

☒ I confirm I used the latest published version to create this change / redline

**or**

☐ This is new content

**Links:** <https://fast.faa.gov/docs/procurementGuidance/guidanceT3.2.2.4.pdf>

**Attachments:** Redline and final documents.

**Other Files:** N/A

Redline(s):

Section Revised:

1 Basis for Single Source

2 Market Analysis Supporting Single Source

3 Award of Single Source

D Appendices

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Procurement Guidance - (~~7~~10/2019)

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T3.2.2.4 - Single Source Added 10/2006

A Single Source Contracting Added 10/2006

1 Basis for Single Source Revised ~~1~~/~~2017~~10/2019

2 Market Analysis Supporting Single Source Revised ~~1~~/~~2017~~10/2019

3 Award of Single Source Revised ~~1~~/~~2017~~10/2019

B Clauses Added 10/2006

C Forms Added 10/2006

D ~~Appendix~~ Appendices Revised ~~1~~/~~2018~~10/2019

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### **T3.2.2.4 - Single Source Added 10/2006**

#### **A Single Source Contracting Added 10/2006**

##### **1 Basis for Single Source Revised 1/201710/2019**

(a) Single source procurement may be used when in the FAA's best interest. A factual, reasoned, and well-documented rationale must support the decision to use a single source. Excluding emergencies, there are no predetermined or prescribed conditions for using a single source. Each single source decision stands alone and is based on the circumstances.

(b) The rational basis for a single source decision must be documented, approved by the Program Manager and (if applicable) Contracting Officer's Representative (COR), and concurred with by contracts. In addition, the rational basis must be ~~found legally sufficient~~ reviewed by legal counsel. All of this must be done consistent with the signature blocks of ~~Appendix~~ Appendices 1 and 2 below. This rationale is documented in a:

(1) Stand-alone, single source justification using the ~~template~~ templates in ~~Appendix~~ Appendices 1 or 2;

(2) Procurement Plan, if a formal plan is established; or

(3) Implementation Strategy and Planning Document, if applicable.

(c) Approval of Implementation Strategy and Planning Document or approval of a Procurement Plan constitutes approval of a single-source procurement; no further approval or documentation is necessary.

(d) For single source procurements with a total estimated potential contract value of \$10,000 or less, a justification is not required.

(e) Single source justification is not required for noncompetitive set-asides to 8(a)-certified Socially and Economically Disadvantaged Business (SEDB) or Service Disabled Veteran Owned Small Business (SDVOSB). (See AMS Procurement Guidance T3.6.1 "Small Business Development Program").

(f) Single source justification is not required for a site-specific requirement for land or unmanned, antenna/ equipment space, where the location of NAS equipment is (1) necessary to the functionality of the NAS, and (2) of continued criticality to the NAS or mission of the FAA. The factual evidence supporting the determination that a requirement for land or unmanned, antenna/ equipment space comes within the scope of this paragraph must have written approval from the Division level of the requiring office and be documented in the Negotiator's Report.

##### **2 Market Analysis Supporting Single Source Revised 1/201710/2019**

(a) Market analysis provides factual data to form conclusions and verify assumptions that FAA's technical and business interests are best served through a single source. For single source procurements ~~(excluding over \$10,000, market analysis is required. A market analysis is not required for emergencies or, set-asides to 8(a) SEDB or SDVOSB owned small businesses) over \$10,000, market analysis is required, or for land acquisitions referenced AMS 3.2.2.4 and T3.2.2.4(1)(f) above).~~ The method and extent of the analysis depends on the requirement, complexity, and estimated dollar value. (See AMS Procurement Guidance T3.2.1.2 "Market Analysis" for further information.)

(b) A formal market survey is one method to gather current data to support a single source decision. When used, a formal market survey ~~should~~ must include a sufficiently detailed description of key requirements (e.g. technical performance requirements, land or space requirements, or essential knowledge, expertise, or experience, etc.) so that potential vendors can determine whether they have the capability to satisfy FAA's requirements.

FAA also uses these key performance requirements to evaluate capabilities of any vendors/ lessors responding to the market survey. The market survey may include explicit instructions to potential vendors/ lessors about the acceptable format, form, and level of detail for vendor capability statements or other vendor/ lessor information that FAA will use to decide whether other capable vendors/ lessors exist and whether a competitive procurement is appropriate. (For more information about real property specific Market Surveys, See Section 4.2).

### **3 Award of Single Source Revised 1/2017 10/2019**

(a) After the required documentation, concurrences, approval and legal sufficiency are obtained for the single source justification as described above, the CO may negotiate contract terms and price or cost with the single source vendor and award the procurement action. Until the single-source justification in Appendices 1 or 2 is fully executed, no one may request any type of proposal information from the vendor.

(b) When the total estimated potential value of the procurement action is over \$150,000, the CO must issue a ~~preaward~~ pre-award public announcement (excluding emergencies and other acquisitions that otherwise would not require announcement, e.g. Delivery Orders, Single Source SEDB, and SDVOSB awards) summarizing the basis for the single source decision. The CO may make a post award announcement to promote potential subcontracting opportunities. (Also see AMS Procurement Guidance T3.13.1 "Other Administrative Procedures" for information about notifications to FAA management and Congress).

### **B Clauses Added 10/2006**

[view contract clauses](#)

### **C Forms Added 10/2006**

[view procurement forms](#)

**D ~~Appendix~~Appendices Revised 1/201810/2019**

## **APPENDIX 1**

### **TEMPLATE FOR SINGLE SOURCE JUSTIFICATION**

#### **1. Title of Procurement**

Insert a brief title describing the requirement. Include the procurement request number, solicitation or contract number, if applicable.

#### **2. Program Office and Point of Contact**

State the title of the requiring organization, and name, email, and phone number of the responsible program official.

#### **3. Nature of Procurement Action**

State the nature of the procurement action, such as new contract award, follow-on contract to an existing contract, or modification expanding scope of an existing task order. Identify the proposed type(s) of contract. If an urgent requirement, state the date by which the procurement action must be awarded.

#### **4. Total Estimated Value**

State the total estimated value, including any options, ceiling amounts, and maximum order amounts. If optional quantities or performance periods are included, separately show the value of each (and include the amounts in the total estimated value).

#### **5. Description of Supplies/Services**

Describe the requirement for supplies or services to be acquired, deliverables and outcomes of the work, the intended use, and any unique requirements. Include total quantities and performance periods (the description of requirements may be broad enough to allow for quantity increases should the contract unit prices be lower than originally estimated or additional requirements become known). Detailed specifications or equipment lists should not be included. When possible, explain the requirement in non-technical terms.

If the requirement will result in a modification to an existing contract, distinguish clearly between work covered by the basic contract and the additional work to be obtained by the proposed modification.

Discuss any relevant background, history, events, or other special circumstances related to the requirement.

## **6. Authority**

Authority for single source procurement is provided by AMS policy section 3.2.2.4. Cite any other authority if applicable, such as an international agreement.

## **7. Rationale Supporting Use of a Single Source**

Discuss why it is in the FAA's best interest to use a single source. Provide a well-reasoned, detailed, and factual explanation. Conclusions about a single source, such as the vendor is the only known source, or no other vendor can satisfy the requirement within needed timeframe, or savings from competition will not recover sunk costs, must be supported by objective, factual information collected through market analysis or other means.

Identify the proposed single source contractor. Include a detailed discussion of the contractor's unique qualifications, experience, past performance, expertise, specialized products or services, proprietary data, or other capabilities. Link the contractor's capabilities to FAA's requirements.

Describe technical benefits and potential cost savings that would result from using a single source versus benefits of conducting a competitive procurement that might result in another vendor performing the work.

Address other factors as applicable, such as the following:

*Impact.* Fully describe any impact to the mission of the requiring organization if the single source product or service could not be provided. Explain why the impact cannot be tolerated. Give factual examples about the nature, likelihood, and severity of impact. Include cost estimates and other factual data about the impact, as appropriate.

*Specialized Expertise.* Explain why a particular expertise, experience, or skill is critical. Discuss why the single source vendor is the only source that has the specialized expertise. Explain why other FAA contractors providing or supporting NAS products and services do not have the required expertise. Describe the impact of not using the single source in terms of feasibility, time, and cost of another vendor obtaining sufficient expertise.

*Follow-on Contracts.* If a follow-on procurement for development, production, or sustainment, discuss any duplication of cost not expected to be recovered through competition or unacceptable delays in fulfilling requirements. Include data to support conclusions such as an estimates of costs that would be duplicated or length of delays for transition to another contractor, and basis for the estimates.

*Standardization.* If a follow-on contract is to standardize on one vendor's product or service, discuss duplication of costs not expected to be recovered through competition or unacceptable delays in terms

of the overall lifecycle of a product or service. Discuss duplicated costs and learning curves in areas such as testing, familiarization, and certification; physical integration and interoperability; configuration management; security certifications; controller and other workforce training; integrated logistics support; maintenance, repair, and other depot or operational engineering support; maintenance infrastructure; airspace design and procedural changes; and *flight inspections*. Include factual examples and data to support conclusions.

*Interim/Bridge Contracts.* If the requirement is for an interim/bridge contract or contract extension because of urgent or unusual circumstances, include a complete explanation for extended period of performance. Discuss why it would be neither cost effective nor realistic for another contractor to perform during the interim/bridge period. Explain issues such as transition plans, start up costs, staffing and recruitment, transfer of property and equipment, retooling, and learning curves for the complexity and variety of requirements. Provide factual examples of transition issues, estimated times, and estimated duplication of costs if a different vendor were awarded an interim/bridge contract.

*External Mandate.* If the requirement was mandated externally, discuss who imposed the requirement, how it was communicated, authority to direct the procurement action, and why single source is the best means of satisfying the mandated requirement. Attach a copy of any relevant documentation describing the external mandate.

*Time Constraints.* If time is a key factor, identify when the requirement first became known, explain the significance of meeting the time constraint, and criticality of time to the organization's mission. Define quantitatively the impact of not meeting the time constraint, and why there is insufficient time to conduct a competitive procurement. Discuss cost and time to conduct a competitive procurement, transition time from one contractor to another, and whether it could be done within the time limitations.

*Patents, Proprietary Data, and Unique Items.* Discuss any constraints such as patents, proprietary data, copyrights or other such limitations. Explain whether the vendor will provide any data, specifications, drawings, or source code to the FAA. Discuss whether individual components of a proprietary item can be competitively acquired from other vendors. Discuss whether the item could be reverse engineered. Describe estimated cost and time to obtain rights to data or for FAA to separately develop the proprietary item.

*Unsolicited Proposal.* If the single source is based on an unsolicited proposal, show that it meets the criteria for a legitimate unsolicited proposal (independently originated, innovative, and unique) and discuss benefits of adopting the proposal.

## **8. Market Analysis**

Describe in detail the market analysis conducted to identify other qualified sources. If market analysis was not conducted, explain the circumstances.

Discuss sources of market data, level of analysis, and conclusions drawn about any other vendor's capabilities, products or services.



State whether a formal market survey was issued, when, and for how long the announcement was open. Include a listing of vendors that expressed written interest in the public announcement. Describe criteria used to evaluate vendors responding to the market survey, reasons for rejecting each vendor, person evaluating the responses and when. If no vendors responded to the market survey, include a statement to that effect.

If a prior market survey is used, discuss when the prior survey was conducted, the results, and why the information is still current and relevant.

Discuss evaluation of data from any internal market survey conducted.

## **9. Other Facts Supporting Use of Single Source**

Discuss any other factors supporting use of a single source.

Include a statement about future actions to be taken, or not to be taken (e.g., no future similar requirements are anticipated), to identify alternate or additional vendors for the same or similar requirements. Discuss any actions to ensure that the prime contractor obtains competition in subcontracting.

## **ENDORSEMENT**

I certify that the supporting data under my cognizance that are included in this justification are accurate and complete to the best of my knowledge and belief.

I further certify that I will be involved in Screening Information Request (SIR) activities pertaining to this procurement. I will have knowledge of and access to confidential and proprietary procurement information and data concerning the selection process such as, procurement strategy, the offeror's proposal, results of evaluations, and the final selection actions. I will not disclose any information of a commercially sensitive or source selection sensitive nature, which is obtained by virtue of participation on the procurement team. Further I will ensure that such information is not used by other persons, companies or organizations to obtain an unfair advantage. **I further certify that I have not requested any proposal information as identified in AMS Guidance T3.1.8A.2(1), communicated any source selection information as identified in AMS Guidance T3.1.8A.2(2), nor communicated an intent to execute a single source contract from or to only the source identified in section 7 prior to the full execution of this single-source justification.**

### **CONFLICT OF INTEREST**

As a member of the procurement team, I hereby agree to abide by the FAA Acquisition Management System; the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. pt. 2635; federal criminal law regarding bribery, graft, and conflicts of interest, 18 U.S.C. §§ 201-209, 216; and the Procurement Integrity Act, 41 U.S.C. §§ 2101-2107. Further, as a participant in the procurement selection activities, I hereby certify to the following:

(1) I have not been employed by the source identified in Section 7 above nor any of its subsidiaries. In addition, neither I, my spouse, or any of my dependent children, or other blood relatives who are residents of my household (hereinafter "I"), now own any bonds, stocks, or stock options, or have any other financial interest, including but not limited to current or future employment or contract rights, in or with respect to the aforementioned Source. I do not have any financial commitments to the source. I am not currently serving as an officer, director, trustee, general partner or employee of the Source.

(2) Neither I, nor to the best of my knowledge and belief, my spouse or any of my minor children have any intention or expectation of obtaining employment with, contracting with, or acquiring stocks, stock options, or bonds in or with respect to the Source for this requirement.

I understand that failure to comply with the above will result in termination of my participation in this procurement and may result in disciplinary action and/or referral for civil or criminal action.

Program Manager Approval

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contracting Officer's Representative (COR) (if applicable) Approval

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contract Specialist (if applicable) Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

Contracting Officer Concurrence

Name:	_____
Signature:	_____
	_____

Organization:	_____
Date:	_____

#### AAQ Branch Manager Concurrence

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

#### Legal Sufficiency

Name:	_____
Signature:	_____
Organization:	_____
Date:	_____

## **APPENDIX 2**

### **TEMPLATE FOR SINGLE SOURCE JUSTIFICATION FOR REAL PROPERTY TRANSACTIONS**

#### **(1) Name/Type of Real Property Acquisition Transaction**

a. Name of Real Property Acquisition Transaction

b. Type of Real Property Acquisition Transaction

c. Lease/Contract Number

d. Nature of Procurement Action:

☐ New Requirement, where there is no pre-existing contract at the proposed location

☐ Modification of Existing Lease/Easement, where there is a preexisting contract, and the scope and/or location of the lease is modified

☐ Lease/Easement Extension, where there is a non-expired, preexisting contract at the same location

☐ Succeeding Lease/Easement, where there is an expired, preexisting contract at the same location (See Note 1, below, for further instruction.)

#### **(2) Authority for Single Source: AMS Policy 3.2.2.4, *Single-Source Selection***

#### **(3) Description of Requirement**

- a. intended use
- b. amount of space/land needed
- c. delineated area
- d. estimated length of need, if appropriate, internal discussions regarding purchase of real property interest
- e. time factors (not related to poor procurement planning)
- f. opportunities (or lack thereof) for collocation
- g. special requirements
- h. other special considerations

#### **(4) Total Estimated Potential Value**

#### **(5) Rationale for Single Source Justification**

##### a. Cite Rationale –

- i. only one available Lessor/Grantor/Seller
- ii. cost/benefit analysis (See Note 1, below, for further instruction.)

b. Support for Rationale – Market Research/Analysis. Relate findings of market research to the rationale stated above. Explain why it is in the FAA’s best interest not to compete the action as evidenced by the data collected from the market. Research must be (1) requirement specific; and (2) tailored to the cited rationale. This section should detail:

- i. method of research
- ii. findings, including, but not limited to:
  - 1. record of communications with market sources about the specific requirement, if any
  - 2. availability of land/space that meets the specific requirement
- iii. relate findings to rationale and requirement

**Note 1:** If the purpose of this document is to extend apre-existing lease or to award a succeeding lease (“staying in place”), the RECO must perform a thorough market survey of potential lessors, including the incumbent. The market survey must include communications regarding the specific requirement, including all updated safety and health requirements.

If the current property does not meet existing health and safety requirements, then the RECO must discuss either (1) plans to bring the current Lessor into compliance; or (2) consideration given for non-compliance. The justification must include programmatic approval.

If the RECO performs a cost-benefit analysis, and cites “moving costs” as a reason to stay-in-place, then the RECO must discuss the option of amortization of moving costs with other potential sources. All communications must be documented.

If cost-benefit analysis is necessary to the justification, and cited by the RECO, then the RECO must elect the alternate certification below.

#### **(6) Conclusion**

## **(7) ENDORSEMENT**

I certify that the supporting data under my cognizance that are included in this justification are accurate and complete to the best of my knowledge and belief.

I further certify that I may be involved in Screening Information Request (SIR) activities pertaining to this procurement. I will have knowledge of and access to confidential and proprietary procurement information and data concerning the selection process such as, procurement strategy, the offeror's proposal, results of evaluations, and the final selection actions. I will not disclose any information of a commercially sensitive or source selection sensitive nature, which is obtained by virtue of participation on the procurement team. Further

I will ensure that such information is not used by other persons, companies or organizations to obtain an unfair advantage.

**I further certify that either:**

**☐ I have not requested any proposal information as identified in AMS Guidance T3.1.8A.2(1), communicated any source selection information as identified in AMS Guidance T3.1.8A.2(2), nor communicated an intent to execute a single source contract from or to only the source prior to the full execution of this single-source justification;**  
**or, as an alternate:**

**☐ I have conducted cost/benefit analysis in connection with this justification, communicating with and/or comparing costs from more than one source, but have not communicated an intent to execute a single source contract to any source.**

## **CONFLICT OF INTEREST**

As a member of the acquisition team, I hereby agree to abide by the FAA Acquisition Management System; the Standards of Ethical Conduct for Employees of the Executive Branch, 5 C.F.R. pt. 2635; federal criminal law regarding bribery, graft, and conflicts of interest, 18 U.S.C. §§ 201-209, 216; and the Procurement Integrity Act, 41 U.S.C. §§ 2101-2107. Further, as a participant in the procurement selection activities, I hereby certify to the following:

- (1) I have not been employed by the source identified above nor any of its subsidiaries. In addition, neither I, my spouse, or any of my dependent children, or other blood relatives who are residents of my household (hereinafter "I"), now own any bonds, stocks, or stock options, or have any other financial interest, including but not limited to current or future employment or contract rights, in or with respect to the aforementioned Source. I do not have any financial commitments to the source. I am not currently serving as an officer, director, trustee, general partner or employee of the Source.
- (2) Neither I, nor to the best of my knowledge and belief, my spouse or any of my minor children have any intention or expectation of obtaining employment with, contracting with, or acquiring stocks, stock options, or bonds in or with respect to the Source for this requirement. I understand that failure to comply with the above will result in termination of my participation in this procurement and may result in disciplinary action

and/or referral for civil or criminal action.

**ENDORSEMENT OF OFFICE REQUESTING TRANSACTION**

I certify that the supporting data under my cognizance that are included in this justification are accurate and complete to the best of my knowledge and belief.

Program Manager Approval

<u>Name:</u>	_____
<u>Signature:</u>	_____
<u>Organization:</u>	_____
<u>Date:</u>	_____

Contracting Officer's Representative (COR) (if applicable) Approval

<u>Name:</u>	_____
<u>Signature:</u>	_____
<u>Organization:</u>	_____
<u>Date:</u>	_____

Contract Specialist (if applicable) Concurrence

<u>Name:</u>	_____
<u>Signature:</u>	_____
<u>Organization:</u>	_____
<u>Date:</u>	_____

Contracting Officer Concurrence

<u>Name:</u>	_____
<u>Signature:</u>	_____
<u>Organization:</u>	_____
<u>Date:</u>	_____

AAQ Branch Manager Concurrence

<u>Name:</u>	_____
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<u>Signature:</u>	_____
<u>Organization:</u>	_____
<u>Date:</u>	_____

Legal Sufficiency

<u>Name:</u>	_____
<u>Signature:</u>	_____
<u>Organization:</u>	_____
<u>Date:</u>	_____